

Office of Chief Counsel  
Internal Revenue Service

**memorandum**

CC:MS:CHI:TL-N-354-00 G:\CASES\ [REDACTED] research credit carryover sol.wpd  
HBDow (312) 886-5810 x. 403 (FAX) 886-8290

date: September. 28, 200

to: District Director, Illinois  
ATTN: Barbara Shandony E:CEB1:1175

from: District Counsel, Illinois CC:MS:ILD

subject: [REDACTED]

EIN: [REDACTED]

Years: [REDACTED]

This is in response to your request for an opinion concerning what year controls the statute of limitations in connection with a claim for refund based on research credits for the taxable years [REDACTED] and [REDACTED].

Part of the claim made by the taxpayer included a carryover of unused research credits from [REDACTED] through [REDACTED]. You have asked whether this claim is timely, or barred by the statute of limitations.

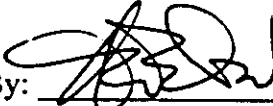
You point out that Rev. Rule 82-49, 1982-1 C.B. 5, concludes, under facts similar to those in the present case, that a taxpayer can claim a carryover of IRC § 46(a) investment tax credit from a barred year, even if the credit was not reported on the bar year return.

The investment credit provided by IRC § 46(a), was in [REDACTED] and remains today a component of the general business credit under § 38. Likewise, the research credit under § 41(a) was and is a component of the general business credit. We can see no basis on which it would be proper to treat the statute of limitations for the carryforward of the investment credit any differently than for the carryforward of the research credit. Therefore, the analysis of Rev. Rul. 82-49 should be applied in the case of the research credit, and consequently, the taxpayer's claim for a carryforward from [REDACTED] through [REDACTED] is timely.

This conclusion in no way precludes you from examining the [REDACTED] through [REDACTED] research credit to make such adjustments as may be necessary to correct the carryforward. These adjustments would include making sure that the carryforward is calculated taking into account the amount that should have been absorbed from [REDACTED] forward, even though refund of any tax for those years is barred.

Furthermore, you can make adjustments to the base year computations for any year, open or closed, including consistency adjustments under IRC § 41(c)(5).

Richard A. Witkowski  
District Counsel

By:   
HARMON B. DOW  
Special Litigation Assistant

cc: Art Simon, Case Manager E:CEB1:1175  
Associate Chief Counsel (Procedure and Administration) CC:ACC:P&A